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GOVERNMENT OF INDIA

MINISTRY OF LABOUR

NOTIFICATION

New Delhi, the 11th February, 1949

No. LR-3(29).—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government is pleased to publish the following award of the Industrial Tribunal, Calcutta in the industrial dispute between Messrs. Assam Oil Co. Ltd., Digboi and their workmen including those employed in the Kerosene Tinning Factory at Tinsukia.

Reference No. 1 of 1948.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

IN THE MATTER OF AN INDUSTRIAL DISPUTE BETWEEN MESSRS. ASSAM OIL COMPANY LTD. AND THE WORKMEN INCLUDING THOSE EMPLOYED IN THE KEROSENE TINNING FACTORY AT TINSUKIA.

Present: Sri S. P. Varma, Chairman,
Central Industrial Tribunal, Calcutta

For the Company—Sri Satish Sen,

For the Union - Sri S. K. Basu, Advocate,
Sri Vidyakar Sarma, Pleader, Dibrugarh,
Sri S. K. Pramanik, Representative

AWARD

By an order No. LR. 3(29), dated 10th August, 1948, the present Industrial Dispute between M/s. Assam Oil Company Limited, Digboi and their workmen including those employed in the Kerosene tilling factory in Tinsukia was referred to this Tribunal under Section 10 (1) (c) of the Industrial Disputes Act with the following Schedule consisting of 20 Issues:

(1) Minimum basic wages of Rs. 40. Revision of pay scales with adequate time scale within its scale or grade, and proper classification of workers according to the nature of their jobs, and abolition or revision of test system.

(2) Dearness allowance to be increased to Rs. 50 in cash according to the increasing cost of living up to Rs. 100 and 50 per cent of wages between Rs. 100 and Rs. 200 and 30 per cent over Rs. 200 to Rs. 250 and allowance for workers with large families.

(3) Bonus—four months pay as Bonus for 1944, 1945, 1946 and for 1947.

(4) Production or efficiency bonus

(5) 40 hours a week without any loss in earnings.

(6) Security of service with provision for compensation in case of reduction of staff and wrongful dismissal or victimisation and reinstatement of workers who have been wrongfully or unjustly dismissed or victimised.

(7) Leave: One month privilege leave for all workers and employees alike, 15 days casual leave and festival leave on gazetted holidays.

(8) Gratuity or termination benefit of one month's wage for each year of service on the termination of service.

(9) Provident fund to be democratically managed by a joint committee including equal number of workers representatives and with proper rules ensuring full payment of the Company's contribution earned by the workers during their past services.

(10) Payment of adequate compensation to the families of the deceased workers who lost their lives as well as to the workers injured in the firing during the last lawful strike.

(11) Sympathetic consideration of specific cases of workers who have suffered losses in employment and property due to any action taken against the recommendation of the Conciliation Board

(12) In case of filling up new vacancies preference to be given to old workers who were unjustly deprived of their jobs in the last lawful Trade Dispute and against the finding of the Conciliation Board

(13) Revision of Standing Orders.

(14) The programme of construction of quarters to be speeded up and finished according to a plan within a short and fixed period with adequate provision for modification of unhealthy or undesirable type of quarters and for proper water and electric supply. Minimum house allowance to be increased to Rs. 10

(15) Medical grievances including full pay for the first four days of sickness as specified in the Assam Oil Company Labour Union's letter dated 17th March 1947 and amplified in its memorandum No. AOC/GM/106, dated the 12th December 1947.

(16) Extension of educational facilities as specified in the Union's letter of 17th March, 1947 to the Management.

(17) Departmental and minor grievances including acting allowances, increasing pressure of work by reducing requisite number of men, travelling allowance etc. as specified in the Union's letter No. AOC/GM/106 of 9th January 1948 and recorded in the joint committee meeting.

(18) Apprentices grievances as specified in the Union's letter of 17th March 1947 and in their memorandum.

(19) Wages for involuntary unemployment to laid off workers.

(20) Same wages, pay-scales, irreducible minimum pay and allowance for involuntary unemployment and service benefits for Company's contractors' labour.

Before taking up the issue it is necessary to mention a few facts to understand the various issues in the proper perspective. The Assam Oil Company which will henceforth be referred to as the "Company" was formed in 1899 by the Assam Railways and Trading Co. Ltd. who operated collieries in the Margherita-Ledo area and who owned the Dibru-Sadiya Railway (now part of the Assam Railway) to take over and work mining leases in Margherita and Digboi held by them and others. The continued efforts of the Company did not result in an economic level of oil production being obtained. Dividends were rarely paid. The management of this Company was taken over by the Burmah Oil Company in January 1921. The A. O. C. Labour Union which will henceforth be referred to as the "Union" was formed on the 22nd February, 1938. This Union was registered on the 7th of August 1938. The Union presented some demands on the 27th July 1938. A Court of Enquiry was appointed on the 16th of August 1938 under section 3 of the Trade Disputes Act 1929, under the chairmanship of J. C. Higgins, Esquire, I.C.S., Commissioner, Assam Valley Division. The Court continued its sitting from August 29th, till October 29th, 1938. In the meantime the Union did not produce its witnesses after the 21st October but formally after the 21th of October as a protest against certain acts of victimisation against one of its leading members. The report of this Committee was published in the Assam Government Extraordinary Gazette on the 10th of February, 1939. Before and after the publication of the report a certain number of workers are alleged to have been dismissed. A General Strike commenced on the 3rd April, 1939. It was originally meant to last for a week only but it continued in the absence of any settlement between the parties. The Assam Rifles were posted along with the police force from the 3rd April, 1939. Various incidents took place between this date and the date of the appointment of the Committee of Enquiry presided over by Sir M. N. Mukherji, Kt. on the 10th July, 1939. One of those incidents was the firing on the night of the 18th April after 9-30 P.M. in which 3 people lost their lives. This matter will be dealt with later while dealing with Issue No. 10. Before the Committee presided over by Sir M. N. Mukherji submitted its report, a Conciliation Board with Mr. K. K. Hajara, I.C.S., District and Sessions Judge, Assam Valley District, was appointed on the 26th of July, 1939 under the Trade Disputes Act 1929 for the promotion of a settlement of the dispute and to explore the possibilities of settlement regarding any outstanding matters still in dispute between the Company and the Union. This Conciliation Board submitted its report on the 8th August 1939. The Committee of Enquiry's report was submitted, however, on the 25th of November, 1939 with a Note by Mr. G. D. Walker, Member, on the 1st December, 1939. The reports of the Conciliation Board and that of the Committee of Enquiry were published in the Assam Gazette on the 20th December, 1939. A Special Ordinance was promulgated by the Government on the 4th September, 1939 declaring the Digboi and Tinsukia Oil areas as protected under the Defence of India Ordinance and forbidding obstruction in production and despatch of oil and petroleum products and prohibiting entry of outsiders within five miles radius of Digboi or Tinsukia without the permission of the Local authorities. An order under Section 144 was issued on the 5th of September 1939 by a Magistrate forbidding assembly of four or more persons, use of red uniforms, etc. The Union could not function in the Digboi-Tinsukia protected area during the war period between 1939 and 1946. It was said that the Union was revived however on the 7th September, 1946. On the 25th August, 1946 a provisional Executive Committee of the Union was formed at a General Meeting of workers of the Company. The annual General Conference was held on the 1st February, 1947. A Joint Meeting of the Representatives of the Company and the Union along with the Central Government's Regional Labour Commissioner, Dr. B. R. Seth was held on the 6th March, 1947 with regard to the grievances and

representations made to the Company and the Government from time to time. General Demands were submitted on the 17th March 1947 (Exbt. 15 (b)) and Company's reply thereto was given on the 30th April, 1947. A Joint Negotiating Committe consisting of representatives of the Union and the Company has been functioning all along according to the agreement made between the representatives of the Company and the Union at a meeting held on 1st July 1947. An Advisory Welfare Committee was formed on the 6th November, 1947. Departmental Works Committees were formed presumably under the Industrial Disputes Act by agreement on the 20th March 1948. Negotiations with the Company closed on the 6th September 1947 and then on the 17th February, 1948, the parties agreed in the presence of the Regional Labour Commissioner to refer the matter on the various issues to a Tribunal. This Tribunal was appointed on the 10th August, 1948. Notices were issued to the parties on the 17th August 1948 to submit their Memorandum. The Memorandum of the Union was filed on the 1st September 1948 and the Company filed its Memorandum with statements and annexures on the 9th September, 1948. The actual hearing of the case began at Digboi on the 15th September, 1948 after the Chairman had inspected certain places there. The sitting continued from day to day except on holidays till the 28th of September, 1948. On account of certain difficulties with regard to books of references, it was thought necessary to resume the hearing at Calcutta, which was done on the 4th and 5th of October when the Pujah holidays intervened. The hearing was again resumed on the 20th October, 1948 and continued till the 26th November, 1948. On the question of re-instatement of certain employees, some evidence had to be taken and as it was not possible to send Mr. Talib, the Regional Labour Commissioner (Central) on Commission as agreed at one time between the parties, he being busy elsewhere, the Chairman had to go to examine the witnesses at Digboi. At Digboi the hearing was resumed on the 6th December, 1948 and was concluded on the 11th of December, 1948. Affidavits have been filed on behalf of twenty-four persons. Twenty-five witnesses were examined and one hundred and forty-eight exhibits taken in. The number of workers in the Company are a little above seven thousand and five hundred leaving out the covenanted employees.

ISSUE NO. 1:—*Minimum basic wages of Rs. 40, revision of pay scales with adequate time scale within its scale or grade, and proper classification of workers according to the nature of their jobs and abolition or revision of test system.*

This issue is one of the most important issues in the dispute. The Union demands a minimum basic wage of Rs. 40 in place of the existing minimum wage of Rs. 19-8-0 or annas twelve a day. It also demands a proper revision of pay scales with adequate time scale within each scale and grade. By this they want that the scale of pay of various categories of employees, unskilled, semi-skilled, skilled and highly skilled, should be correspondingly revised on the basis of a higher minimum by giving a general increment to all workers, that is, by raising the minimum of each and every pay scales adequately, with due regard to the nature of work, skill, effort or responsibility required, occupational dangers involved, and dirty or uncongenial or unhealthy nature of the occupation, etc. as well as to the high wage level of the petroleum industry in comparison with other industries all over the world. They rely chiefly upon the observation of Sri Omeo Kumar Das, a member of the Digboi Court of Enquiry, 1938, under the head "General increase in wage" at page 28 of the said report. They also want that the test system should be abolished.

The Company on the other hand refers to the pay scales which is attached to their statement as Annexure X. They point out that annual increments have been provided for both unskilled as well as semi-skilled workers. They say that every job has a value which has been carefully assessed according

to the relative skill necessary or responsibility demanded. These gradings cannot reasonably be altered merely by length of service. Referring to the observations made by the Union from the 1938 Court of enquiry report, they say that the conditions have changed since then and the total emoluments paid by the Company have greatly increased. They further allege that their rate of payment compares favourably with those of other industrial concerns in India. So far as the test system is concerned, they submit that Trade Tests are the fairest means of promoting able artisans. The alternative proposed by the Union is promotion by decision of Departmental Officers, and it was to abolish complaints of unfairness in this that the test system was introduced. They maintain that the tests were not "designed to block promotion of deserving and efficient workers to higher grades of pay". "On the contrary they accelerate progress of those men who have skill by short-cutting a time scale."

The chief question in this dispute is whether the minimum of annas 12 a day paid to the unskilled workers should be raised. In the course of argument, Sri Basu appearing for the Union submitted that what has to be seen by the Tribunal is whether Rs. 19-8-0 is adequate for living wage and how far the allowances given by the Company affect the minimum wage. He said that the real wage of the workers consist of the quantities of food, housing accommodation, clothing, fuel, lighting and other commodities which he can buy with his money wage. In support thereof, he referred to Section 9 of the Conciliation and Arbitration Act of Australia, dated 6th January, 1943 where it was said that the earnings of children and wife should not be taken into consideration. Collective Agreements published by I.L.O. Geneva 1936 at page 152. He also referred to a Note by Sri S. Bhattacharya of Statistical Laboratory, Calcutta, on the scale of minimum wage for the Jute Mill workers in Bengal on the basis of pre-war conditions. Science and Culture (Volume 12), pages 376-379 (February 1937) by K. B. Chattopadhyay and Chaturvedi. Year Book of Labour Statistics (9th Issue) 1945-46 at page 222. Industrial Labour in India, I.L.O. Geneva 1938, at page 272. He also referred to Industrial Labour in India, 1947, the Pay Commission Report, paras. 51 and subsequent paragraphs as well as 72 and 73 and Labour Investigation Committee (Main Report), page 279, where it has been mentioned that the Cost of Living in Bengal and Assam has risen by 200 per cent.

All these aspects of the question have been taken into consideration by the members of the Pay Commission, who say in para. 51 of the report as follows:

> "After some discussion, the majority of the members agreed that Rs. 55 per mensem (made up of basic salary, plus dearness allowance would be a fair minimum wage at a cost of living index of 260."

Later on, this figure 260 was corrected and they admitted that they really meant 285 as will appear from Appendix 'C' of that report. Sri Sen appearing for the Company says that in dealing with the question of minimum basic wage, the dearness and other allowances must be taken into account to judge whether the total minimum remuneration for the unskilled worker is adequate or not.

The principle on which the minimum basic wage should be fixed is now more or less settled on account of the various reports and a number of Awards on this subject. The broad principles are that:—

(a) Every normal worker should be paid a wage which is adequate to promote health, efficiency and general well-being, *i.e.* he should get a living wage.

(b) Workers should be paid at rates more or less equivalent to the rates offered to workers in occupation of a similar character.

(c) The minimum wage should not differ markedly from the ruling rates in the country, *i.e.* the national income *per capita*.

These principles can be gathered from the following:

(1) Indian Working Class by Radha Kamal Mukherjee, pages 132, 180 and 230.

(2) Award in Imperial Chemical Industries Dispute by Justice Divatia in Bombay Government Gazette, dated 10th November 1947 (Part I).

(3) Adjudication in Messrs Mukand Iron & Steel Works Ltd.,—Labour Gazette, November 1945, p. 208 at ps 211 and 212.

(4) Pay Commission Report, paragraphs 46-51 (pages 29 to 34).

(5) Engineering Tribunal Award, Calcutta Gazette Extraordinary, dated 3rd July 1948 (pages 557-563).

(6) Jute Tribunal Award—Issue No. 3 (page 12 and onwards).

This matter recently came up before the Engineering Tribunal to which I have made a reference and in that case the basic minimum wage was fixed at Rs. 50 with Rs. 25 D.A bringing the total to Rs. 75. In this connection I may also mention that the General Manager of the Assam Oil Company was good enough to come and make a statement on the 21th September 1948 last before the Tribunal at Digboi in which he stated that the Company was prepared to pay Rs. 30 as basic wage and Rs. 30 as other allowances in all. It is true that the statement as a whole should be taken into account but it may be utilised as an indication that the Company was prepared to pay Rs. 30 as minimum wage. I would, therefore, raise the minimum basic wage to Re. 1-2-6 per diem in a month of 26 average working days for the unskilled labourers. That being so, the next question is as to what is to be done with regard to the pay of the other workers. Now that the minimum basic wage has been raised, I would raise the pay of the workers according to the following scale:

UNSKILLED

Present		*Proposed*	
A GRADE:			
	Rs. A. P. per day		Rs. A. P. per day
1st year	0 12 0 ,,		
2nd year	0 13 0 ,,		
3rd year	0 14 0 ,,	1st year	1 2 6 ,,
4th year	0 15 0 ,,	2nd year	1 3 0 ,,
5th year	1 0 0 ,,	3rd year	1 4 0 ,,
6th year	1 1 0 ,,	4th year	1 5 0 ,,
7th year	1 2 0 ,,		
8th year	1 3 0 ,,		
B GRADE:			
1st year	0 14 0 ,,	1st year	1 3 0 ,,
2nd year	1 0 0 ,,	2nd year	1 4 0 ,,
3rd year	1 2 0 ,,	3rd year	1 5 0 ,,
4th year	1 3 0 ,,	4th year	1 6 0 ,,
5th year	1 4 0 ,,	5th year	1 7 0 ,,
6th year	1 5 0 ,,	6th year	1 8 0 ,,
7th year	1 6 0 ,,		

SEMI SKILLED AND SKILLED

	Rs. A. P. Annually		Rs. A. P. Annually
Re. 1-2-0 to Re. 1 8-0	0 1 0 ,,	Re. 1-4-0 to Re 1-10-0	0 1 0 ,,
Re. 1-8-0 to Rs. 2-12-0	0 2 0 ,,	Re. 1-10-0 to Rs. 2-14-0	0 2 0 ,,
Rs. 2-12-0 to Rs. 4-0-0	0 4 0 ,,	Rs. 2-14-0 to Rs. 4-2-0	0 4 0 ,,
Rs. 4-0-0 to Rs. 4-12-0	0 6 0 ,,	Rs. 4-2-0 to Rs. 4-14-0	0 6 0 ,,

Present				*Proposed*			
IMPROVERS AND ARTISANS							
Improvers :							
	Rs.	A.	P.		Rs.	A.	P.
1st year	1	4	0	1st year	1	6	0
2nd year	1	6	0	2nd year	1	8	0
3rd year	1	8	0	3rd year	1	10	0
4th year	1	10	0	4th year	1	12	0
5th year	1	12	0	5th year	1	14	0
6th year	1	14	0	6th year	2	0	0
7th year	2	0	0	7th year	2	2	0
8th year	2	2	0	8th year	2	4	0
Artisan, Grade 1 :							
1st year	2	0	0	1st year	2	2	0
2nd year	2	2	0	2nd year	2	4	0
3rd year	2	4	0	3rd year	2	6	0
4th year	2	6	0	4th year	2	8	0
5th year	2	8	0	5th year	2	10	0
6th year	2	10	0	6th year	2	12	0
7th year	2	12	0	7th year	2	14	0
Artisan, Grade 2 :							
1st year	2	8	0	1st year	2	10	0
2nd year	2	12	0	2nd year	2	14	0
3rd year	3	0	0	3rd year	3	2	0
4th year	3	4	0	4th year	3	6	0
5th year	3	8	0	5th year	3	10	0
Artisan, Grade 3 :							
1st year	3	8	0	1st year	3	10	0
2nd year	3	12	0	2nd year	3	14	0
3rd year	4	0	0	3rd year	4	2	0
4th year	4	6	0	4th year	4	8	0
5th year	4	12	0	5th year	4	14	0

APPRENTICES

1st year	0	14	0 per day	1st year	1	3	0 per day
2nd year	1	0	0 ,,	2nd year	1	5	0 ,,
3rd year	1	2	0 ,,	3rd year	1	6	0 ,,
4th year	1	4	0 ,,	4th year	1	7	0 ,,
5th year	1	6	0 ,,	5th year	1	8	0 ,,

YOUTHS (OTHER THAN APPRENTICES)

Over 14 years of age As. 0-9-0	As. 0-11-0 per day
Over 15 years of age As. 0-10-0	As. 0-12-0 per day
Over 16 years of age As. 0-11-0	As. 0-13-0 per day
Over 17 years of age As. 0-13-0	As. 0-15-0 per day
Over 18 years of age As. 0-14-0	Re. 1-0-0 per day
Over 19 years of age As. 0-15-0	Re 1-1-0 per day
Over 20 years of age Re. 1-0-0	Re. 1-2-0 per day

CLERICAL PAY SCALES

Grade I	Rs. 50 5 90 -5/2—120	Rs. 60—5—100—5/2—130
Grade II	Rs. 100—10—50	Rs. 110—10—160
Grade III	Rs. 165—10—195	Rs. 175- 10 -205
Grade IV	Rs. 205 -220/230/240/250	Rs. 210/225/235/245/255
Typist	Rs. 60—5—100—10—150	Rs.70—5—110—10—160
Head Typist	Rs. 165—10—195	Rs. 175—10 205
Comptometer Operators	Rs. 80 —10—150	Rs. 90 10 -160

SCHOOL STAFF

H. & M. E. Schools:

A. Normal trained non-Matriculates or Matriculates without training:

Rs. 50 4 90 5/2 120 — Rs 60—4 100—5/2—130

B. Normal trained Matriculates and I. A., I. Sc., without training:

Rs. 50 5 95 5/2—120 — Rs 60 -5 105 -5/2 130

C. B. A. or B Sc. without training or I. A., I. Sc. with training:

Rs. 60—5—95 5/2 120 — Rs 70 5 105 5/2—130

D. B. A., B. Sc. with training:

Rs. 70 5—120 10 140 — R 80 -5 - 130—10- 150

E. Headmasters/Headmistresses:

Rs 100 —10 150 — Rs. 110 10—160

Rs. 165 10 195 — R 175 10 205

Rs. 205 —220 — Rs. 210 225

Second Master/Mistresses:

Rs. 90 10 140 — Rs 100 10 150

Primary Schools:

Guru trained and non-Matriculate without training:

Rs 45—3 75 5/2 - 85 — Rs 55- 3— 85—5/2—95

A. Normal trained non-Matriculates and Matriculate without training:

Rs. 50 4 - 90 5/2 120 — Rs 60 -4 100—5/2—130

B. Normal trained Matriculates:

Rs. 50 5 95 5/2 —120 — Rs. 60 5—105—5/2—130

C. Not applicable

D. Not applicable

E. Headmasters/Headmistresses*

Rs 100 10 —140 — Rs. 110 —10 150

Sri Sen for the Company told me that the pay of Medical Department Staff (which is to be found in Annexure X of Company's Statement) has been recently revised. Some of the Compounders, however, came and complained to me, when I visited the hospital, that their pay is very low. They should get an increment as follows.

Present	*Proposed*
Probation (6 months) Rs. 60 then	Probation (6 months) Rs. 65/- then
Rs 60—5—90—E.B.—10 140 max.	Rs. 65—5—95—E.B.—10—145 max.

The pay of the other members of the Medical Department considering the nature of the work, seems to be adequate and no change is suggested.

N.B.—Next usual increments will be given at the time when their increments will be normally due.

So far as the classification of the services is concerned, it will have to be remembered that in this concern it is not only one kind of work that is being carried out but that various kinds of works are being carried out. The classification made by the Company seems to be quite good. I do not want to interfere with it.

Test System.—So far as the question of abolition of the Test System is concerned, I have not been able to appreciate the grievances of the Union against this system. One of the chief reason given by them for the abolition of the test system is that it may lead to favouritism. But if the test system is abolished, the position to my mind will be worse. I therefore see no reason to accede to the request of the Union on this point.

ISSUE No. 2.—*Dearness Allowance to be increased to Rs. 50 in cash according to the increasing cost of living up to Rs. 100 and 50 per cent. of wages between Rs. 100 and Rs. 200 and 30 per cent. over Rs 200 to Rs 250 and allowance for workers with large families.*

On the question of Dearness Allowance, the Union's demand is that the Dearness Allowance should be raised to Rs. 50 in cash and 50 per cent. of

(* must be B. T. or normal trained).

wages should be given as Dearness Allowance to employees drawing between Rs. 100 and Rs. 200 per month and 30 per cent to those drawing over Rs. 200 and up to Rs. 250. The Union bases this demand of Rs. 50 as minimum in cash.

At present the Company pays Dearness Allowance at the flat rate of Rs. 16/8/- *plus* Rs. 9 as absent dependents allowance at the rate of Rs. 3 for every absent dependent limited to 3. The Company also claims that the value of the food concessions comes to about Rs. 12/8/3. Leaving aside the question of House Allowance, which is mentioned as Rs. 4, the Company alleges that the amount of Dearness Allowance claimed is high. They were prepared, however, to increase the total monthly earnings of a worker getting the minimum wage to Rs. 64 by raising the minimum basic wage to Rs. 30 *i.e.*, Re. 1-2-6 per day and food concession at a monthly cash allowance of Rs. 30 along with Rs. 4 House Allowance. The question of Dearness Allowance has to be considered along with the total emoluments that will accrue to the worker. The Union's demand based on full and complete neutralisation of the rise in prices since 1939 is not acceptable to the Company. The simplest way of deciding the question of Dearness Allowance is to take into consideration the pay of 1939, the present cost of living index and whether the wage cut due to the rise in the cost of living should be neutralized to the fullest extent. Higgin's Committee found that the pay of Annas -/12/ was adequate but Sri Onkyo Kumar Das gave a dissentient report. The Assam Government did not however consider it safe in the absence of any reliable data as to the cost of living to come to any conclusion. So far as Digboi is concerned we have not got any cost of living index so that we could compare the extent of the rise in prices from 1939 to 1948. We have, however, got a report of a Fact Finding Committee appointed by the Central Government about the Cost of Living in Mergherita, a few miles to the east of Digboi (published in the *Gazette of India*, Extraordinary, July 1, 1948—pages 935 to 950), where they came to the conclusion that taking the base of 1939 as 100 "the cost of living in the Colliery area in Assam had risen by 200 points approximately over the 100 base of 1939." Sri Sen for the Company evidently was under a misapprehension when he argued that the cost of living index in that area was only 200, because in a subsequent sentence it has been said to clear the position that:

> "To compensate for the rise of nearly 200 per cent. in the cost of living in the colliery area in Assam, the Committee recommends that 112½ per cent. dearness allowance on the new basic wage should be given to the underground colliery workers in Assam."

As I have mentioned in the previous issue, the cost of living index in Assam is mentioned as 200 per cent. above basic 100 of 1939; *vide* Labour Investigation Committee's Main Report. Sri Pramanik however has submitted a note which shows that the cost of living index is much higher than what has been mentioned in the Mergherita report or Rege's Main Report. He has given facts and figures based upon enquiries made at Digboi. These figures are there no doubt and they have not been contradicted by the Company but I find it difficult to act upon them when I find that they have not been tested. So, in the absence of any authentic report on the subject, it can approximately be held that the cost of living index in Digboi is somewhere near 300, only a little higher than what the Pay Commission was dealing with. The question then arises whether the workers are entitled to a full compensation of the rise in the cost of living. On this point the Award given in the Textile Labour Association *versus* Ahmedabad Mill-owners Association reported in *Labour Gazette* May, 1940 (Page 780) may safely be referred to. This observation

was made by the Industrial Court of Bombay presided over by Hon'ble Mr. Justice H. V. Divatia as President and Sri G. S. Rajadhyaksha and Sri B. K. Dalvi, were members. Textile Labour Association in that dispute urged that the full extent of the cost of living should be neutralized by the employers and that the workers were entitled to this because the present level of wages did not come up to the living standard In reply to it they observed after making some comments:—

> "We are also not prepared as at present advised, to accept the principle that the employers owe any duty to the employees to make good to them, to the full extent, the rise in the cost of living merely by reason of the fact that there has been such a rise."

After referring to the observations of Sir Walter Layton in the article in the Economist, dated 20th January 1940, Page 88, where he says:

> "One or two practical suggestions have emerged from the current discussions. The one that is of particular importance in the main strategy of the price problem is that wage increases should not come into play until the cost of living has risen above its minimum by more than a certain minimum number of points. Any attempt to rise all wage-rates in proportion to the rise in the cost of living must be self-defeating."

They say—

> "In view of these considerations we are of opinion that the workers would not be entitled to a rise to the full extent of the rise in the cost of living unless it could be shown that the industry has benefited to a corresponding extent by the very contingency which has occasioned the rise."

This principle has been accepted by a number of Tribunals coming after this observation. Various Awards have been referred to but my attention was chiefly drawn to the Pay Commission's report by the Company. On their own showing they have been paying something like Rs. 38-0-3 pies over and above the basic wage of Rs 19-8-0 per month. It must also be remembered that the basic wage of Rs. 19-8-0 has been raised by me from Annas 0-12-0 to Re 1 2-6 per diem that is to say Rs 30-1-0 in a month of 26 average working days. It would not be right to reduce the Dearness Allowance which the workers have been getting. On the contrary in view of the approximate cost of living, I would allow them Dearness Allowance according to the following table:

All workers who will be in receipt of Basic pay of:

(a) Re. 1-2-6 to Re. 1-14-0 per day will get, Re. 1-7-6 per day or Rs 38-3-0 per month.

(b) Rs 2 to Rs. 3-12-0 per day or Rs. 50 to Rs 100 per month will get, Re 1-8-6 per day or Rs. 39-13-0 per month.

(c) Rs. 4 to Rs. 4-14-0 per day or above Rs. 100 and up to Rs 150 per month will get, Re. 1-10-0 per day or Rs. 42-4-0 per month.

(d) Above Rs. 150 per month will get, Rs. 45-8-0 per month.

This will be payable in cash Therefore, it necessitates the abolition of the complex system which has been adopted by the Company. But the Company should maintain the foodstuff shop and continue to run the same on the basis of no profit no loss principle. The cost of maintaining the shop should be borne by the Company. This arrangement should come into force within two months of the publication of this Award.

ISSUE NO 3 - *Bonus Four Months' Pay as Bonus for* 1944, 1945 1946 *and for* 1947.

In the written statement the Union demands four months' pay as bonus for the years 1944 1945, 1946 and 1947. They further refer to the fact that the Regional Labour Commissioner (Central), Calcutta, recommended to the Company in March 1947 to grant 3 months' wages as bonus, one month's wages each for the years 1944, 1945 and 1946 On that basis it comes to 4 months wages including the year 1947. They further say after referring to other incidents "Therefore our demand for one month's wages for each of these years only since 1944 is very modest and there is no valid reason why it should not be granted" They also say that the demand also necessarily means that for the year 1948 and afterwards Bonus should be fixed on a fair basis according to profits.

At this stage I should like to mention that on the 16th September 1948 at Digboi a petition was filed by the Union for the supply of certain documents and records of the Company and a copy of this was also supplied to the Company for compliance or objection if any Documents demanded were chiefly to show the financial condition of the Company On the 24th of September, when Mr Vallentine made a statement in the Court, this application came up for consideration and Sri Satish Sen for the Company said that considering the assets of the Company he did not propose to urge that he was not in a position to pay The application was filed because Sri Basu also thought that in view of the attitude of the Company it was not necessary to have these documents before the court

The Company on this question of bonus alleges that it is not true that the recommendation of Dr B R Seth for granting bonus from 1944-47 was acceptable to the local management They say "The Company pays adequate wages to its workmen and contributes one month's pay in the year towards Provident Fund and spends lots of money in welfare activities such as free medical treatment both to the employees and their families, including maternity and child welfare services, and free education Consequently the Company cannot find any justification for this claim" They also urge that the wages that were paid were much higher than those paid in the province. The Company never paid any annual bonus but instead paid higher wages than any employer in Assam. They further urge that the claim for bonus for the past years *i e.* 1944 to 1947 cannot be entertained in as much as it would violate the provisions of Section 19 of the Industrial Disputes Act They also said that many of the present workers were not in the employ of the Company during the years in question.

In the course of arguments on the question of bonus when Sri Sen raised the question that bonus for the past years could not be granted on account of Section 19 of the Industrial Disputes Act which came into force on the 1st of April 1947, Sri Basu for the Union replied that Sec 19 did not debar the payment of bonus but only says that the Award will remain in force for one year and he further added that the years mentioned are only a basis for 4 months wages as bonus. The Union really claim a lump sum as bonus amounting to 4 months' wages Now in dealing with the last portion of Sri Basu's argument, I must say that although it has been very ingeniously put yet on the statement of the Union which I have quoted above, it is clear that the Union's original case was that they should get bonus for the years 1944, 1945, 1946 and 1947 at the rate of one month's pay for each year. In this issue the first thing to be seen is whether bonus should be granted to the Union and if so to what extent. I must say that on this point Sri Sen appearing for the Company put forth a vehement opposition against the demand of the Union for a bonus He points out that according to the written statement

the date of demand was the 6th March 1947. He also says that the claim is hit by Sec. 19 of the Industrial Dispute Act, 1947 and that the claim for bonus for 1944 is barred by limitation. With regard to 1945 and 1946 Sri Sen urges that the cause of action with regard to these years arose before the present enactment came into force. He further says that certain amounts have gone to the Government in the shape of Income Tax and if the workers are entitled to bonus on the gross income then the Government cannot be made to disgorge the same as they are not a party. He further contends that the question of bonus has to be considered with the wage structure. They are not separate from the normal wage structure and if the workers are well paid, the question of bonus does not arise as bonus is a kind of wage. Also, two considerations arise for paying bonus. Firstly, that the living wage is not sufficient and secondly that the employees have contributed by their labour to the increased profits of the particular year. Before the workers can claim bonus, it must be shown that the living wage is not sufficient to enable them to save money for extraordinary expenditure and contributed specifically to the profits of the given year. Bonus was never paid by the Company. It was not therefore one of the terms of the contract and this Tribunal may by its award by granting the bonus make it a term of the contract. If asked to make it a contract for 1944, the Tribunal will have to see whether the law allows it. Under Sec. 19 of Industrial Disputes Act the new terms imposed will come into operation from the date to be specified by the Government making the Award binding for one year. He did not accept the observation of E. M. Nanavutty-J. published in the Labour Gazette December 1943 page 250, saying that the observations were made in a case under Rule 81(A) of the Defence of India Rules.

To begin with I must say at once that the argument advanced by Sri Basu that they are claiming really four months' bonus for 1947 although very ingenious, is not acceptable to me. The language used by them in their written statement not only at one place but at several places makes it clear that they were claiming bonus for each year at the rate of one month's pay. Two questions are to be considered now. Firstly, whether a bonus should be allowed and secondly to what extent. This necessarily requires a discussion as to what bonus is. I cannot do better than quote a passage from Nanavutty J's observation reported in the Bombay Labour Gazette, December 1943 (at pages 250-253):

> "The old idea of controversy between capital and labour is now completely obsolete, and co-operation between all engaged in business-concerns is deemed to be the only salvation for industrial enterprises. As a result of this fundamental change of attitude a movement has been started in the world of economic thought in the present century, which has led to the idea of co-partnership in industry and to profit-sharing between the capitalists and organisers of industry on the one hand, and their workmen on the other. No longer is industry looked upon merely from the business point of view but also from the human side."

He further observes that "the Standard Vacuum Oil Company should have no hesitation whatsoever in keeping Indian workmen in its employment contented and happy by granting them a very small share in the unusually large profits made by its Company in India during war-time". He made these observations after saying that "the contention that labour had no right to share, in the extra profits made by a business-concern was accepted as axiomatic some fifty years ago and more. During the 19th century, when the principle of "Laissez faire" held the field, there existed a state of competition amongst the employers as well as amongst the employed."

Mr Justice Chagla in the industrial dispute between the General Motors (India) Ltd and its employees, observed

> It is almost a universally accepted principle now that the profits are made possible by the contribution of both capital and labour make in any particular industry, and I think it is also conceded that labour has a right to share in increased profits that are made in any particular period

(Bombay Government Gazette Part I, of May 28 1942, at the bottom of page 1900)

Sir Robert Broomfield in the dispute between the Bombay Electric Supply and Tramways Co , Ltd , and its employees observed

> It is the usual practice when bonuses are paid to the employees of a Company out of profits, to pay them in terms of the monthly wages, half a month's, one month's, two months wages as the case may be But the claim that in future the war allowance should be treated as part of wages in the calculation of bonuses is in my opinion a reasonable and should be conceded "

(Bombay Government Gazette Extraordinary, Part I, dated 10th July 1942, paragraph 25 at page 2538)

Although originally bonus was considered a sort of *ex-gratia* payment to workers the general trend of opinion is that workers who have contributed their labour towards the making of profit should be granted a bonus It will be evident from the scrutiny of the Awards that industrial Tribunals in India are now inclined to direct payment of bonus where the Company's profit will enable them to pay the same This they do not only for the purpose of supplementing the normal contractual wages where such wages are rather low but also for the purpose of gaining the co operation of the employees and trying their success with the success of the Management regarding earning profits It is no doubt true that payment of bonus for any particular year must depend upon the profit of that specific year but it is not always profit sharing as it is generally understood If my Company earns profit sufficient to enable it to pay bonus the Tribunal may feel inclined and may be justified too in granting such bonus not only for the purpose of supplementing their wages which, in India is not too high and sufficient to meet their expenses for the purpose of living a decent life but also for the purpose of gladdening their hearts and of inducing to put more energy in their works with a contented mind The underlying principle may not be *profit sharing* as it is technically understood but the workers are entitled to participate in the prosperity of the Company I have seen Awards in which no bonus was allowed when no profit was made by the Company and in many cases bonus has been given when appreciable profit has been made

I therefore do not agree with the view of Sri Sen who urged upon me to postpone the consideration of bonus in view of the fact that the Central Government is now considering the "profit-sharing" scheme I therefore direct that the Company should pay one month's basic wages as bonus for 1947 to all monthly rated workers who are in receipt of basic wages below Rs 300 and to all daily rated workers at the rate of 26 days basic wages and have worked for 55 per cent of the working days at least The authorised leave will count as attendance The future payment of bonus will depend upon future financial position of the Company

The next question is whether bonus for the years 1944, 1945 and 1946 should be granted. There are various Awards in which past bonus was not granted. These are:

(1) Engineering Tribunal Award, Calcutta Gazette Extraordinary, Part I, 3rd July 1948 (P. 579).

(2) Angus Engineering Works, Ltd., Calcutta Gazette July 8, 1948 (Part I)—(P. 600).

(3) Spences Ltd., (P. 1392 at 1395)., Calcutta Gazette, dated 21st October 1948.

Agreeing with these Awards, therefore, I will give them bonus at the rate mentioned above for the year 1947 only but reject the same for the years 1944, 1945 and 1946.

ISSUE No. 4:—*Production of Efficiency Bonus.*

The Union says that the Committee of Enquiry recommended in 1938 that the Company should introduce efficiency bonus and that recommendation has not been implemented. The observation of the Committee on the question of efficiency bonus is as follows:

> "Possibly the Company might consider the introduction of an "Efficiency Bonus", which has the approval of the Royal Commission" (Page 22).

There was no discussion of the question beyond this. They made this observation after having said "the Labour Union could only ask for a profit sharing bonus as a concession and not as a right. Its grant is a matter for the Company alone to decide. We are not prepared to influence it in any way".

From the arguments advanced by the parties I understand that by 'Production Bonus' is meant that a certain average amount of production is fixed by experts and if a labourer produces more in a producing department than the average then he gets a bonus. Efficiency bonus is meant for non-productive departments chiefly. Sri S. K. Pramanik in the course of his argument said that labour leaders were not always in favour of production or efficiency bonus. But he suggested that the scheme should be in line with Tata's scheme, a copy of which has been filed. I may say at once that the conditions in one concern are not always similar to that of conditions in another concern. If the Union had given a definite scheme, which they have not, I could say something on the matter. Not being an expert myself on this topic and not having got the assistance of an expert either, I am not prepared to give an Award that Production and Efficiency bonus should be introduced by the Company.

ISSUE No 5 —*40 hours a week without any loss in earnings.*

The case for the Union as it appears from their statement is that the hours of work should be reduced in this concern to 40 hours a week according to the I.L.O Convention They rely to a certain extent upon the majority recommendation of the Higgin's Committee to reduce the hours of work to 44 hours when the Factories Act permitted work to be carried on up to 56 hours a week. They suggest that when the 56 hours has been reduced to 48 hours a week, 44 hours a week recommended by the majority of the Higgin's Committee should be reduced to 40 hours without any loss of earning specially because the works done in a petroleum concern are risky and unhealthy in nature. The Company on the other hand points out that in the case of general shifts and some factories, the hours fixed by the Company are 45½ hours a week. In the workshop and the Power House it is 45 hours with a 48 hours

spread-over. In the Refinery (8 hours shift per day), the period is 45 hours a week and 53 hours a week in alternate weeks, 48 hours and 56 hours spread-over. In the Fields, 8 hours shifts per day and it is 48 hours in some sections and in drilling wells 56 hours. But they pointed out that the work is not continuous during this period They further point out that although the Factory Act has been amended in 1946, it maintained the 48 hours a week in a factory and in the case of seasonal ones 50 hours a week. (See Company's statement on this issue). I may mention here that 48 and 50 hours were substituted for 54 and 60 hours by the amending Act 10 of 1946.

In developing this point, Sri Basu for the Union, refers to the Draft Conventions and recommendations of the I.L Conference, Page 49 of the Higgin's report, I L O Year Book 1936 37, Year Book of Labour Statistics 1945-46, I.L O Montreal 1947, I L.O Year Book 1937-38 and 1938-39 the Award in the Railways *versus* their workmen Rege Committee's Report, page 11, Indian Labour Gazette, May 1948 (Page 768) and Factories Act (Sec. 34) He says that workers may be classified as

(a) Intensive and continuous workers,

(b) Essential Intermittent workers, and

(c) Excluded and interior staff.

He also refers to Point (c) in the Report of the Works Committee Meeting of 26 May 1948. He further urges that in calculating the period of work, the time for taking and making over of duties should be included and waiting at a place for going to join his duties by a worker at a distant point should also be included and for night workers there should be shorter hours of duty He also referred to Elements of Industrial Well-being, Publication No. I, Labour Bureau, Ministry of Labour, by Sir Wilfred Garret (Page 11). Sri Sen for the Company on the other hand contended that the workers may be divided into factory workers and non-factory workers and the non-factory workers are not working more than 56 hours The New Factory Act, which has not come into force yet, does not touch the question of hours With regard to the question of Convention, America has adopted International Labour Convention but India has not. He also referred to the Bihar Labour Enquiry Committee Report (Pages 64-75) and the Calcutta Gazette Extraordinary of 3rd July 1948 where the hours have not been reduced. The observations in the Railway case he says are not applicable to the present case because some of the workers there, are on duty for 24 hours. He also said that in special cases reduction may be considered but not in the case of all and also pointed out that the Assam Oil Company was exempted from the operations of Sections 34, 35, 36, 37 and 38 by Rule 91 of the Assam Factories Rules, 1935. He also pointed out that if they are over-worked the workers are paid extra. Sri Basu for the Union in reply naturally pointed out that the Tribunal can fix appropriate hours because the Factory Act only fixes the maximum Labour Conventions though not ratified by India deserve consideration. On this question the majority opinion to be found at page 27 of the Higgin's report is as follows:

"Hours of works

"In our opinion, the demand for 44 hours a week in place of 45½ hours is modest one The tendency everywhere in India and outside has been towards reduction of working hours Since the publication of the report of the Labour Commission on which the Chairman bases his findings working hours have been reduced from 48 downwards. The very fact that the Company has adopted 45½ hours a week in place of 48 points to this conclusion. At page 48 of *Indian Labour Union Year Book of 1936-37* it is said that

5 days week a week had been adopted in many factories in the interest of National Economy and National Welfare. With this ideal in view we recommend to the Company to reduce the working hours from 45½ to 44 hours reducing 1½ hours on Saturday.

SAYIDUR RAHMAN
OMEOKUMAR DAS

I am in general agreement with the view expressed therein. Moreover if a week consists of 5½ working days and a day consists of eight working hours, $8 \times 5\frac{1}{2}$ would bring the figure to 44 and not 45 or 45½ hours. So, I am of opinion that the hours of work of those who have to work for 45 or 45½ hrs. should be reduced to 44 hours with a spread-over of 48 hours. In the case of others there will be no change.

ISSUE NOS. 6 AND 13

ISSUE NO. 6.—*Security of Service with provision for Compensation in case of reduction of Staff and wrongful dismissal or victimisation and re-instatement of workers who have been wrongfully or unjustly dismissed or victimised*

and

ISSUE NO. 13.— *Revision of Standing orders.*

These two Issues have been taken together.

The Union's statement began on Issue No. 6 by saying that:

"This is an important demand of the workers though it is not properly appreciated how exactly security of service can be ensured so as to inspire a sense of security among the workers. All increases in wages and D. A. and the grant of Bonus and more holidays with pay will be meaningless if effective steps are not taken, in reality to ensure security of service".

"What effective safeguards against wrongful or undesirable dismissals can be devised, that is the question to be determined."

The Statement refers to the safeguards provided in the Standing Orders that no worker can be dismissed without two previous warnings and without giving proper opportunity to the workman so warned to explain his position in defence. "But in actual practice, the manner of giving warnings and recording them along with their explanations is very faulty, objectionable and open to undesirable practices and evasions." The Union suggests that adequate compensation should be given to an employee when as a result of an independent Tribunal or voluntary arbitration it is found that it was a case of wrongful dismissal or a case of victimisation. In the case of dismissals, the suggestion is that there should be a Charge Sheet prepared and given to the worker and he should be asked to submit an explanation and that the employees should be given a provision for a regular enquiry in the presence of Union official and Works Committee members concerned, by the Departmental head at the first stage and by the Labour Superintendent at the second stage, and by a Joint Committee of Representatives of the employer and the union at the final stage.

The Company on the other hand points out that the Standing orders fully ensure the security of service as it is generally understood. "A worker, who is charged with an offence has an initial right of appeal to the Labour Superintendent, who if he finds a *prima facie* case can request a re-trial by the Head of the Department. If this appeal fails, the worker can appeal to the General Manager who personally considers the case. Additionally, if the

worker wishes to put his case to the Labour Union, the latter considers whether it is a matter for the Negotiating Committee. This Negotiating Committee consists of 3 or 4 members of the Union Executive, the Labour Superintendent and a senior assistant representing Management This Committee considers very fully all the evidence including any fresh evidence on each case. Subsequently its views are referred to General Manager whose decision is final. In certain cases the latter has ordered re-instatement of workers and cancellation of warnings."

Reading the two statements and also the Standing Orders, which is Annexure 'B' of the Company's Statement, it appears to me, the grievances are not so much against the rules but as to the method in which these rules are applied. Security of service means that when a person is holding an office, he should not be deprived of it without any reasonable cause and that if he is punished—warned, dismissed or discharged, he should get an opportunity for explaining In the course of argument Sri S. Basu urged that the warnings were not properly given and that misconduct was not properly defined. Looking at Rule XIV of the Standing Orders, I find that there is a special provision which runs as follows: [The procedure for warning also is to be found in sub-section (3) of the same].

> "No order of dismissal or summary discharge shall be made unless the workman concerned is informed in writing of the alleged misconduct and is given an opportunity to explain the circumstances alleged against him."

To say that in certain instances these rules have not been complied with is one thing but to hold that the rules in themselves are defective is another. If the Union finds that a dismissal was wrong and which amounted to a case of victimisation, the Tribunal can certainly order the re-instatement of the victim or allow compensation to him. Now, so far as the last portion of this issue is concerned, the matter had to be gone into in great detail.

Re-instatement of workers who have been wrongfully or unjustly dismissed or victimised:

The question arose before me whether re-instatement was a mere remedy suggested on the same lines as that of compensation or whether it was a matter in which the Tribunal had to go into the specific instances of wrongful dismissals which the Union was prepared to put forward. To be on the safe side I have allowed evidence to be taken on this point. It will be noticed that in the Statement of the Union under Issue No. 6, no instances of wrongful dismissals or victimisation were given. After concluding their statement a last page was added in which these names were provided. The list consisted of 26 names and referred to as an initial list. Later on, in course of the proceedings a list of 28 names was submitted as cases for re-instatement. They are:

	Name	Company's Regd. No.
1	Obedur Rahman	(12307)
2	Bhakta Bahadur	(19825)
3	Nar Bahadur	(24986)
4	Tajul Islam	(18964)
5	Hamidul Haque	(19078)
6	Abdul Gafur	(6231)
7	Jatish Chandra Chowdhury	(4024)
8	Abdul Jalil	(14276)
9	Abdul Salam	(21634)
10	Muzaffar Ali	(22005)

	Name.	Company's Regd. No.
11	A. H. Ludi	(26485)
12	Nur Baksh	(12753)
13	Durgadutta Upadhya	(6664)
14	Ullah Meah	(24382)
15	Madhusudan Joisoy	(28702)
16	Kristama	(25179)
17	Chitraiah	(24621)
18	Kurmaih	(24640)
19	P. C Borah	(16539)
20	Faiz Ahmed	(26182)
21	Eman Singh Chettry	(21488)
22	F. Mannan	(27401)
23	I K. Chowdhury	(27818)

Of these, the following only were examined before me:

(1) Obedur Rahaman,

(2) Nar Bahadur,

(3) Tajul Islam,

(4) Hamidul Haque,

(5) Abdul Gafur,

(6) Jatish Chandra Chowdhury,

(7) Muzaffar Ali,

(8) Durgadutta Upadhya,

(9) Chitramh, and

(10) Faiz Ahmad.

The case of Bhakta Bahadur was amalgamated with that of Nar Bahadur and the cases of Kristama and Kurmaih were amalgamated with Chitraiah. Some witnesses were also examined to support the statements made by the main witnesses.

In the case of persons claiming re-instatement after discharge or dismissal, one should not forget that ordinarily in cases of re-instatement one would be forcing a person upon an employer against his wishes and the employee also if re-instated may not behave satisfactorily if he feels that he has been re-instated against the wishes of the employer. In ordering reinstatement the Tribunal must be satisfied that it is a case of victimisation and should not order re-instatement simply because the Tribunal could possibly come to a different conclusion on the facts placed before it. This view has been expressed in a number of Awards. The Imperial Bank Award (Calcutta *Gazette Extraordinary*—6th September, 1947), Venasta Ltd. (Calcutta *Gazette, Extraordinary* 6th September, 1947), Charles Abreight & Co. (Page 1442 of Calcutta Gazette dated 28th October 1948), and several other Awards. I have gone through the statements of the witnesses examined by me on behalf of the employees and also the statements of witnesses examined on behalf of the Company and I am of opinion that the cases of:

(1) Obedur Rahaman,

(2) Nar Bahadur,

(3) Hamidul Haque,

(4) Abdul Gafur,

(5) Jatish Chandra Chowdhury,

(6) Muzaffar Ali,

(7) Durgadutta Upadhya, and

(8) Bhakta Bahadur (not examined before me),

do not call for any interference by me That the Company authorities were careful in distinguishing the cases of individuals is apparent from the story that comes out in the case of Nar Bahadur. There were four persons found sitting idle at their work but only Bhakta Bahadur and Nar Bahadur were discharged and not the other two. They were merely warned. The reason being that the other two did not have previous warnings, whereas these two had. The cases of:

(1) Faiz Ahmad,

(2) Tajul Islam,

(3) Chitraiah,

(4) Kristama, and

(5) Kurmaih,

are slightly different. They have not been found guilty of negligence of duty or misconduct. In their case, I would suggest that if a suitable vacancy occurs and they are found suitable for the jobs, their cases may be favourably considered by the Company.

A petition was filed on the 10th of December, 1948, informing the Tribunal that Tajul Islam (18964) and Faiz Ahmad (26182) who were discharged on the 12th June 1948 should not have been discharged in view of the provision of Section 33 of the Industrial Disputes Act. I have examined these two persons and my views are to be found in the previous paragraph. With regard to the case of Ullah Meah (Regd. No 24382), who was discharged on the 30th August 1948, I may mention at once that although his name was given in the list, he never appeared before the Tribunal. Moreover, I doubt if this Tribunal can deal with his case, because this dispute was referred to the Tribunal on the 11th of August, 1948 and he is alleged to have been discharged on the 30th August, 1948.

Coming now to the question of the revision of the Standing Orders, I may first dispose of the preliminary objection that was taken by Sri Sen for the Company to relying upon a decision of the Madras High Court He urged that this Court could not go into the matter. The jurisdiction of this Court depends upon the question whether the revision of Standing Orders is an Industrial Dispute This view of the Madras High Court though not directly before the Jute Tribunal has been differed from by them on a similar objection raised by the counsel for the employers. They observed· (Page 57 of Jute Tribunal Award)

> "This Tribunal has therefore, ample jurisdiction to deal with and adjudicate upon this industrial dispute, and we cannot legitimately refuse to exercise the jurisdiction vested in us as a Tribunal, merely because, had there been no such dispute, the parties have certain rights derived from the provisions of the Industrial Employment (Standing Orders) Act. The rights of the parties under the Industrial Employment (Standing Orders) Act must be held to be restricted by the circumstances arising from the existing industrial dispute, which we consider it to be our duty to try to resolve.....It is to be noted further that there is nothing

in the Industrial Employment (Standing Orders) Act which precludes this Tribunal from considering the subject of Standing Orders as an industrial disputes."

I may add further that in the present case when the Standing Orders were sent to the Union by the Regional Labour Commissioner, dated 3rd April 1947 [Exbt. 13 (2)], he observed in the last paragraph as follows:

"It may be pointed out that their objections should not be based on any merits or demerits of the provisions of the Draft Standing Orders but should only confine as to whether they are in conformity with the Act and the Rules."

So, the Union had no chance after this intimation to deal with the merits or demerits of the Standing Orders. So, Sri Sen's contention fails.

But the question still remains whether the Standing Orders need revision. I have gone through the Standing Orders in the light of the arguments advanced by the parties and I notice that the Standing Orders have followed the model rules. There are but very slight variations due to the nature of the work carried out by the Company. One of the grievances put forward by the Union was that misconduct has not been defined in the Standing Orders. But I find in Rule XIV that misconduct has been described under the sub-section (1) from (a) to (k) which is an exact copy of the description given in the Model Standing Rules. Generally speaking I am not inclined to interfere with the Standing Orders. It will be interesting to note that before this dispute was referred to the Tribunal, a meeting was held before the Regional Labour Commissioner (Central)—a Memorandum of which has been placed before me as Exbt. I. It is dated 18th February, 1948. I will quote the relevant sentences:

"It was finally agreed that all the Union's demands except No. 13 (i.e. Revision of Standing Orders) would be referred to the Tribunal."

"Mr. Pramanik proposed that the former published Standing Orders on stoppage of work should be included in the Standing Orders rather than the present two paragraphs."

Then after some discussion it was agreed to refer this to the Tribunal. I am not prepared to revise the Standing Orders generally but where the Standing Orders are affected by the other portions of this Award, that relevant portion should be modified accordingly. Moreover, these Standing Orders were certified on the 2nd of April 1948 and if any changes are required, they can be introduced now that 6 months have expired from that date

ISSUE No. 7:—*Leave: one month privilege leave for all workers and employees alike, 15 days casual leave and festival leave on Gazetted holidays.*

The Union demands that all the workers both daily rated as well as monthly rated should be allowed one month's privilege leave with full pay. They also claim 15 days Casual Leave with full pay and 22 days festival leave with pay. At present the daily rated employees get 14 days privilege leave and the monthly rated employees get one month's privilege leave with full pay. The Company points out that the daily rated workers are also allowed 28 days leave without pay over and above the 17 days which they get as privilege leave with pay including 3 days festival holiday. They also contend that the leave terms are quite generous and that the amount of leave should not be increased. In the course of argument Sri S. Basu drew my attention to Rege Committee's report at Page 118 where the importance of leave in the case of workers has been pointed out. There can be no two opinions on this question. What this

Tribunal is concerned mostly is whether the amount of leave allowed to the workers is adequate. So far as privilege leave to the daily-rated workers is concerned, I think Cawnpore Enquiry Committee report referred to at Page 119 of Rege's report may well be followed. Cawnpore Labour Enquiry Committee recommended that 15 days privilege leave with pay to daily-rated workers on completion of one year's service should be allowed. The clerks and the monthly-rated workers cannot have any grievance so far as their privilege leave is concerned. So far as the festival holidays are concerned, I am afraid that the demand of the Union for 22 days festival leave is rather high. They base their claim on the Award made in the Printing Press Award and reported in the Calcutta Gazette (Part I) dated 20th May 1948 at page 622. But it will be noticed that after referring to the fact that the workers of a Government press at least have 23 gazetted holidays, they allowed 10 days in a year excluding Sundays. The Higgin's Committee report recommended that the employees should be given religious holidays granted by the Post & Telegraph Department of the Government of India. In Bengal and Assam they pointed out there were 7 in number in addition to the 3 holidays under the Negotiable Instrument Act (New Year's Day, Christmas day and Good Friday and the customary notified holiday on the Kings birthday). Evidently, the demand for 22 days festival holiday was made in view of the recommendation of the Higgin's Committee with this difference that the number of festival holidays demanded was double that of what was recommended by the Higgin's Committee. I would follow the opinion of the Higgin's Committee in this respect and allow them 11 days festival leave inclusive of the present festival holidays and also inclusive of Mahatma Gandhi's birthday and Independence Day. The other days to be fixed by the Company in consultation with the Union. Absence on the preceding or following day of the festival holiday will be treated as absence on the festival holiday. These festival holidays should not be included with the other kinds of leave they are entitled to. So far as the Casual Leave is concerned, the demand of the Union is for 15 days with pay. There is no arrangement for Casual Leave with pay in the Standing Orders; but there are arrangements for granting Casual Leave without pay under the Casual Leave rules. Unforeseen circumstances may arise when a worker may have to take Casual Leave. I would, therefore, allow 7 days Casual Leave (non-cumulative) with full pay to the monthly rated workers. I am not inclined to allow Casual Leave excepting as provided for in the Standing Orders to the daily rated workers. So far as sick leave is concerned, I think the rules are proper and fair. Accumulation of privilege leave will be as provided for in the Standing Orders. The other leave privileges not affected by the Award will continue.

I therefore direct that the Company should grant leave and holidays as follows:

Privilege leave (inclusive of statutory holidays under Factories Act):

Monthly rated workers—30 days.

Daily rated workers—15 days.

Casual leave: 7 (seven) days to monthly rated workers.

Festival holidays: 11 (Eleven) days inclusive of Mahatma Gandhi's birthday and Independence Day.

Sick leave: The present scale to continue.

The leave rules should be modified as indicated above.

ISSUE NOS. 8 AND 9

ISSUE No. 8:—*Gratuity or termination benefit of one month's wage for each year of service on the termination of service:*

and

ISSUE No. 9.—*Provident Fund to be democratically managed by a joint committee including equal number of workers' representatives and with proper rules ensuring full payment of the Company's contribution earned by the workers during their past services.*

Issue No. 8:—The demand of the Union is that the workers should get gratuity or termination allowance at the rate of one month's wages for each year of service or a part thereof on the termination of service. They say that Provident Fund is no substitute for Gratuity or Termination allowance or pension. They claim that they should get a fair amount as Gratuity or Termination allowance, in addition to the amount they may or may not get as provident fund. They pointed out certain defects in the rules of the Provident Fund saying that it was not compulsory and that a considerable number of workers could not afford to pay the contributions out of their low earnings. That the Anna Fund is meant only for the people drawing less than Rs. 30 and that those who are discharged before 5 years do not get the Company's contribution at all. The Company according to their statements used to pay gratuity over and above the Provident Fund benefit but its benefit was restricted. They also claim that the gratuity should be paid after two years of service on the termination of service. The present rate of half a month's pay for each year of completed service should be raised to one month.

The Company does not accept the demand of the Union saying that they have got a scheme for Provident Fund for all classes of employees wherein they contribute one month's pay in a year or in the case of the Anna Fund contributions approximately similar In the course of argument on this issue, a reference was made to Exbt. 8(1) which is dated 29th December 1937. Along with this should be noticed Exbt. No. 8(a) which is dated 18th August 1937 and is earlier by a few months. Exbt. 8(a) is to the following effect:

> "Labour Superintendent is being requested to translate into 3 vernaculars and distribute to all departments through Time-keeping Department a notice to the following effect:
>
> At its own discretion in approved cases (not by rule), the Company has been accustomed in the past to grant retiring gratuities to men who are ceasing work after 25 years continuous good service, or sometimes even after 20 years.
>
> After the end of this year, the Company when calculating the amount of any such gratuity will deduct from it the amount of bonus contributed by the Company to the man's Provident Fund after 31st December 1937, *or if he is not a member (though eligible to be) the amount which would* have been contributed if he had joined the fund on that date.
>
> In other words, the gratuity will be calculated in respect of his service prior to 31st December, 1937 only, and a man will not receive more than the amount so calculated, however long he serves, unless he joins the Fund.
>
> Every man who hopes to get a long service gratuity should therefore join the Fund immediately, and in any case before 31st December 1937."

As there seemed to be some misunderstanding about the notification of 29th December 1937, they explained the situation by Exbt. No. 8(1) in which they say as follows:

"As there is still some misunderstanding about the principles governing the granting of gratuities for long service they are repeated below:

1 At its own discretion in approved cases (not by rule), the Company has been accustomed in the past to grant retiring gratuities to men ceasing to work after 25 years continuous good service, and sometimes even after 20 years

2 No change is being made in the method of deciding whether or not a man is eligible for a gratuity; if he is eligible the amount will in future be calculated as follows:—

"(a) For service before 1st January, 1921, half a month's pay for each year of service before that date.

(b) For service between 1st January, 1921 and 31st December, 1937, gratuity is allowed on the basis of what the Company's contribution to the employee's Provident Fund would have been had both Subsidiary and Anna Funds been in force during the whole period If the employee has actually been a member of either fund for part of the time he receives his reward for that period from the Company's contribution to the Fund. The Company does not pay gratuity in addition for this period.

(c) For service after 1st January, 1938, all employees should be members of either the Subsidiary or the Anna Fund. Therefore no gratuity will be paid independently of the contribution which the Company offers under the funds."

On behalf of the Union a reference was made to the Court of Enquiry's Report at Page 10, where the Committee observed at Page 11:

"We can only point out that there are commercial concerns which give better terms, even to the point of granting retiring gratuities in addition to their contributions to their provident funds, and leave it to the generosity of the Company."

Although they mentioned the fact that gratuity and Provident Fund were paid in certain concerns they did not make any recommendation of their own. Reference was also made to Adarkar's report at pages 74, 75, 171 and 172 but that only narates the terms and conditions of various Provident Funds under various companys. It would be convenient to take up the Issue about Provident Fund also at this point

Issue No. 9.—On this point the Union demands a hand in the management of the Provident Fund and they say that in the model Provident Fund rules prepared by the Government of India, there is a provision to that effect. They also say that the Provident Fund rules of the Company should be revised. A worker who has been dismissed should not be deprived of the contributions of the Company altogether specially with regard to the years of service for which he served and contributed. They also suggest that the Company's contribution should be payable after one year's service instead of 5 years service. They also suggest certain alterations in the Anna Fund Scheme The Company replies by saying that the Subsidiary Provident Fund was started in the year about 1921 for workers drawing over Rs. 30 per month and Anna Fund in 1936 for workers drawing less than Rs. 30 per month in wages and these funds are now administered under the rules complying with the provisions of the Income-Tax Acts. The Provident Fund rules are to be found in Annexures C and D of the Company's statement. The Company says that the rules cannot be changed without the consent of the Trustees who are not before the Tribunal The Company further submits that this is not an Industrial Dispute as contemplated under Industrial Disputes Act.

Looking at both the Issues together so far as gratuity is concerned, I find that the terms of the Company are quite reasonable. The only question that

arises is as to what should be the position after the Company gave Notice on the 29th July 1938. [It is Exbt. 9 (2).] The only question of importance arises as to what should be the position after the introduction of the Provident Fund on 1st January, 1938. Are they entitled to gratuity in addition to the contributions made by the Company or are they entitled to the benefits of the Provident Fund alone. Many Awards have been cited before me but I am in agreement with the observations of the Engineering Award that the workers should be entitled to claim only one kind of the retiring benefits. So far as changing the rules of the Provident Fund is concerned I am afraid, it cannot be done as under the trust, Burmah Oil Company are the trustees and they are not before this Tribunal. No change in the rules can be introduced under those circumstances. The Anna Fund scheme will die a natural death after the present Award because the minimum basic wage has been raised to more than Rs. 30 per month.

Under these circumstances all that I can do is to extend the time for joining the Provident Fund to the workers who have not yet done so. Till then the present practice will continue, *i.e.* they will get the benefits of the Company's contribution as mentioned in Exbt. 8 (1) quoted under Issue No. 8. The workers who have not joined the Provident Fund should do so within two months of the publication and coming in force of this Award.

ISSUE No. 10:—*Payment of adequate compensation to the families of the deceased workers who lost their lives as well as to the workers injured in the firing during the last lawful strike.*

The case of the Union is that when the strike was in progress for about 16 days, three persons Satyendra Nath Chakraborty, Praneswar Choudhury and Chandi Ahir lost their lives in the firing incidents on the night of the 18th April 1939. Several others were also injured in course of the said firing incidents. The Union's case further is that Mr. R. Rainsh, Mr. H. F. Towler and Mr. A. Gillespie fired the shots which killed the above-named three persons. Mr. Towler is said to have killed Satyendra by revolver shot, Mr. Gillespie is said to have killed Chandi Ahir by a revolver shot and Mr. Tainsh is said to have killed Praneswar with a rifle shot. The occurrence is said to have taken place near about Charali Bazar. The Union further complains that although the first information was lodged it was not recorded. There was a magisterial enquiry by Mr. P. N. Das, which started on the 20th of April 1939 and complaints were filed on the 24th of April 1939. During the course of the magisterial enquiry three petitions were filed. The report of Mr. P. N. Das was made on the 3rd of May 1939. The enquiry was made by the magistrate under section 190(C) of Cr.P.C. He came to certain findings after examining not less than 73 witnesses. His findings are to be found at the end of his report [Exhibit 10(a)]. His findings are:

"(1) that the deaths of Praneswar Chaudhury and Satyendra Chakravarty were caused by rifle shots fired by riflemen of Paniram's party;

(2) that they fired in self-defence when faced with and attacked by hostile mob of several hundred;

(3) that Chandi Ahir was shot down by Lieutenant Murray in self-defence when he was similarly attacked by a hostile mob;

(4) that they all exercised the right of private defence on being attacked by the mob in the course of patrol duty;

(5) and that none of the Assam Oil Company's employees were with riflemen at the time;

(6) and that neither Mr. Tainsh, nor Mr. Towler, nor Gillespie fired at the mob or shot down any member of the mob."

(Sd.) P. N. DAS,
3-5-39.

To continue with the story three petitions were filed before the Sessions Judge against the dismissal of the complaints before the Additional Sessions Judge, Assam Valley District at Jorhat. Petitioners were Nandalal Talukdar, Karimon Ahir and Birendra Nath Chakraborty. Exbt. 10(2) was a petition of complaint by Kariman Ahir, brother of deceased Chandi Ahir against Mr. Gillespie. Exbt. 10(3) was a petition of complaint by Nanda Lall Talukdar, maternal uncle of deceased Praneswar Chowdhury against Mr. Tainsh. Exbt 10(4) was a petition of complaint by Birendra Nath Chakraborty brother of deceased Satyendra Nath Chakraborty against Mr. Towler The learned judge discharged the three motions that were filed before him holding as follows:

> "It is clear from the District Magistrat's report that the 3 complaint petitions were dismissed under sections 203 Cr.P.C. after a proper judicial inquiry"

and then he noted

> "At this stage I do not see any materials to make any direction under the provisions of Sec. 436 Cr P.C. The Magistrate's report will now be available as well as the copies of depositions of witnesses examined by him to any person who will care to file applications for copies of them to the proper authority competent to grant copies. If after perusing the copies the legal advisers of the petitioners think it necessary to challange any of the conclusions therein, they should come by fresh petitions giving tangible grounds for inviting the interference of the Sessions Court under Section 435 Cr. P. C."

It may be noted that at the hearing of these applications before the Additional Sessions Judge Mr. J. P. Baruah on the 27th May 1939 no one appeared for the petitioners. It is then said that a petition was filed before Mr. K. K. Hazra, Sessions Judge, Assam Valley District, who is alleged to have ordered a further enquiry. Although so many years have passed a copy of that order has not been filed before me Exbt. 10(6) however, was filed before me which happens to be a copy of a letter from the Chief Secretary to the Government of Assam to the Secretary, All India Trade Union Congress, Proctor Road, Girgaum, Bombay (4) The relevant portion of this letter for this issue reads as follows:

> "I am to add with regard to the request that action be taken to give effect to the judgment of the Session Judge in the firing incident, that all that the Sessions Court did was to reverse the order of the Magistrate dismissing certain complaints under Section 203 Cr.P.C. with the order that further enquiry should be made into the firing incidents. The only information available to the Provincial Government is that further enquiry was made by an Inspector of Police whose report on the petitions of complaint as mistake of fact under Section 302 I.P.C. was accepted by the magistrate. No further effort appears to have been made by the complainants to press their complaints."

The letter is dated 16th July 1946. A preliminary objection was taken by Sri Sen to the fact that this was not an industrial dispute and this Tribunal could not go into the matter. That the cause of action arose at a time when the Industrial Disputes Act was not in existence. Sri S Basu for the Union on the other hand replied that when the matter has come on reference the Tribunal can go into the matter. He also suggested that this matter has come before the Tribunal on a joint representation of the parties and therefore one of the parties could not raise the question of jurisdiction. Evidently, he was under the impression that reference was made under Section 10(2) of the Industrial Disputes Act Evidently this part of the argument was advanced under misapprehension because the reference was made under clause (c) of

sub-section (1) of Clause 10 of Industrial Disputes Act. I have my doubts about this matter, whether this can come within the definition of an Industrial Dispute but I shall deal with this legal position while dealing with Issue No. 11. But the matter has been fully placed before me by both the parties and I will deal with the merits of the case. The material facts that have emerged from the elaborate arguments advanced by both the sides are that a firing incident took place on the 18th April 1939. A Magistrate who held an enquiry did not find the story put forward by the witnesses against the accused acceptable. Revision petition before the additional judge was ultimately discharged. We hear of another revision before the sessions judge by which further enquiry was ordered but that order of the sessions judge has not been produced although so many years have passed. From Ex. 10(6) it appears that the matter was enquired into and the police submitted a report "as a mistake of fact" and the petition of complaint was dismissed and no further efforts were made to revive the complaints. Sri Basu for the Union argued still on the report of Mr. Das that he disbelieved the witnesses for perjury but it is curious that he did not file a complaint against them. Sec. 476 of the Cr.P.C. leave the question of initiating proceedings against witnesses for perjury entirely to the discretion of the Court and simply because he did not initiate proceedings, it cannot be said that his estimate of the evidence was erroneous. Even the second report which was by the police after the order of the alleged further enquiry is not in favour of the complainants and if they felt that the further enquiry by the police was not contemplated by law they could easily move the proper authorities in the matter. This does not seem to have been done. In the course of the argument stress was laid upon Exht. 10(5) which is a Congress Bulletin dated 9th July 1939. The relevant resolution is to be found at page 10 of the Bulletin, which is as follows:

> "*Digboi Strike.*—This Committee views with grave concern the prolonged strike at Digboi and expresses its sympathy with the strikers in their distress. The Committee regrets that the Assam Oil Company has not seen its way to accept the modest suggestion of referring the question of the method and time of reemployment of the strikers to a conciliation Board to be appointed by the Government of Assam.
>
> In the opinion of this Committee no corporation, however big and influential it may be, can be above public criticism or Government supervision and legitimate control. Moreover, as was declared at the Karachi session, the Congress policy is that there should be State ownership or control of key industries. The oil industry is undoubtedly a vital key industry. This Committee therefore hopes that better counsels will prevail with the Company and that its directors will accept the modest suggestion made on behalf of the Committee by the President of the Congress. If, however, the directors do not see their way to do so, the Committee advises the Assam Government forthwith to undertake legislation for making the acceptance of the decisions of Conciliation Boards obligatory and further to give notice to the Company that the Committee may reluctantly be obliged to take such steps as may be necessary to stop renewal of the lease to the Company on its termination. At the same time that this Committee urges the Company to fall in with the just suggestion made by the Committee, it hopes that the Labour Union will be ready to listen to the Committee's advice and if they were to retain Congress and public sympathy they will be ready and willing to abide by the advice that may be tendered to them by the Committee."

This resolution is not of much assistance to the Union for the purposes of this issue. On the materials before me I am not in a position to hold that it has been proved that Satyendra Nath Chakraborty, Praneswar Chaudhury and Chandi Ahir were killed by Messrs. Towler, Tansh and Gillespie respectively. When that is not proved it cannot be held that the Company was responsible for the death of 3 persons on the night of the 18th April, 1939. However, much one may sympathise with the relatives of the deceased, I am afraid, on the materials before me I cannot give an award against the Company to pay compensation to them.

ISSUE No. 11:—*Sympathetic consideration of specific cases of workers who have suffered losses in employment and property due to any action taken against the recommendation of the Conciliation Board.*

In order to understand the claim of the Union it will be remembered that the strike continued for sometime before the promulgation of the ordinance after the declaration of the war. Some of the strikers were re-employed. Those who were not employed were ordered to leave Digboi. They were given one month's pay, railway fares to their homes for themselves and their children payable on vacating Company's quarters within one month. The case of the Union is that as the workers had to vacate their quarters at a very short notice they could not take all their properties and therefore they suffered loss of property. It is under this circumstance that the Union wants a sympathetic consideration of the specific cases of workers who have suffered loss of employment and property. Although this issue to my mind does not come within the definition of Industrial Dispute, I asked the Union to file affidavits with regard to individual cases to get a clear idea of the nature of the grievances that they had. Three affidavits were filed on 3rd December 1948, sworn by one Abdul Matin. The first affidavit refers the cases of 19 persons, the second refers to 4 persons and the third refers to the case of one person. In all the three affidavits the person who swore says "this is true to my information and I believe the same to be true." It is significant that he does not say that the facts are true to his knowledge. As against this we have the affidavit by one A. L. Burnett who denies in his affidavit any responsibility for the eviction of the persons claiming compensation or for any loss of property if sustained by any person. As I said in the beginning of my remarks in this issue that I am of opinion that this is not an industrial dispute. Section 2(k) defines Industrial Disputes and runs as follows:—

> "2. (k) 'industrial dispute' means any dispute or difference between employers and employees, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person;"

So, in this case it has first to be established that there was a dispute or difference, that dispute or difference was between employer and workmen and that dispute or difference was connected with the employment or non-employment or the terms of employment or with the conditions of labour of any person. Even if there is a dispute or difference between an employer and a workman but it is not connected with the employment or non-employment or the terms of employment or with the conditions of labour of any person, it is not an Industrial Dispute. So, first of all we have to see whether there is a dispute or difference and that dispute satisfies the definition.

A dispute has been defined in the Chamber's Twentieth Century Dictionary as "a contest with words: an argument: a debate: a quarrel. Difference is also defined as 'a contention or quarrel: the point in dispute'. Now the

very heading of this issue shows that the Union wants sympathetic consideration of specific cases of workers.....". Sympathy has been defined as "like feeling: an agreement of inclination, feeling or sensation: compassion pity: tenderness: an agreement of affections or inclinations, or a conformity of natural temperament:....." If the Union wanted to be compensated for losses of employment and property as a matter of right, this issue would have been differently worded. They would not have asked for sympathetic consideration. Nor am I satisfied that the dispute is connected with the employment, or the terms of employment, or with the conditions of labour of the claimants. I am of opinion that it is not really a case of an Industrial Dispute. Even on the merits, a case for compensation for non-employment or loss of property has not been made out The Company could be asked to compensate only if it could be held that they were responsible for the loss of employment or property. The statement of the Union is not very definite on this point as will be evident from some of the passages from the statement filed by the Union. They say:

> "The position was that the Civil and Military authorities, responsible for the newly-declared Protected area, *evidently* acting on the report of the Company that such and such persons were dismissed from their services and given settlement, refused them permits to remain in the area any longer."

(I have italisized the important expression).

This is an inference rather than a statement of fact. They further, say that. "*There is every reason to believe* that the Company by all means created that impression in the minds of the authorities that it will be dangerous to permit them to stay there even for 24 hours after the settlement." These are mere insinuations which cannot be the basis of a finding against the Company. The Affidavits on behalf of the Union as I have already said are not based on knowledge. Moreover, so many years after the alleged incident it is easy to make as assertion which it is difficult to refute.

On the materials before me I do not think that the Company can be held liable for the losses if any suffered by the workers either of employment or property. Although so many years have passed no steps seem to have been taken by any of the alleged sufferers to have their remedy in any of the law courts. I therefore, hold that no Award should be passed against the Company on this Issue.

ISSUE No. 12:—*In case of filling up new vacancies preference to be given to old workers who were unjustly deprived of their jobs in the last Lawful Trade Dispute and against the finding of the Conciliation Board*

By this issue the Union asked that preference should be given to old workers who are deprived of their jobs in the last lawful trade dispute and against the finding of the Conciliation Board. They say that old hands should be given preference in filling vacancies. The Company replies that they have re-employed ex-strikers, that they have no objection to re-employment of ex-strikers provided they find them suitable and available when a vacancy is to be filled up They also say that under the present policy of the Provincial Government, the Company is bound to give preference to the people of Assam. I do not see how it is expected that a man, who had gone on strike could be preferred to an equally good candidate for a vacancy The fact that a worker had gone on strike may not be a disqualification for future employment but it cannot give him a preferential claim. I would, therefore, suggest that the fact that a worker has gone on strike should not be used as a disqualification against him subject to the limitation suggested by the Company.

ISSUE No. 14:—*The programme of construction of quarters to be speeded up and finished according to a plan within a short and fixed period with adequate provision for modification of unhealthy or undesirable type of quarters and for proper water and electric supply. Minimum House Allowance to be increased to Rs.* 10.

The Union in its statement wants that suitable quarters for all employees should be provided as undertaken by the Company within a reasonable time. The period should be fixed and a comprehensive scheme should be prepared and construction of quarters should be expedited accordingly. The Company should also improve the existing water and electric supply. They further claim increase in the minimum housing allowance from Rs. 4 to Rs. 10. The Company in its reply says that there is provision for housing of 61 per cent in Digboi and 44 per cent in Tinsukia. The Company has spent a large sum of money on building about 479 new quarters and extending or improving old quarters, since 1st January 1945 and they have further housing programme involving expenditure of further 11 lakhs of rupees. Dearth of building materials, principally cement, has recently been greatly hampering progress. The Company pays a house allowance of 10 per cent of basic wages or Rs. 4 per month, whichever is greater, to all who are not provided with quarters. There is no justification for the demand for increase of this allowance.

It is true that the Company accepted the obligation of housing the employees (See Page 18 of Higgin's report). There is no doubt that building materials are difficult to get now-a-days and the delay in having some more houses built may well be on account of that difficulty. In the course of my visit to Digboi I had occasion to visit different types of quarters built by the Company. I need not give a complete list of the various types because that will be found in Rege's report at Page 12. To that list may be added C. E. 129 type of quarters since built. Exbt. Nos. 14(a) and 14(d) give an idea of number of quarters, type by type and their detailed description respectively. Another method adopted by the Company for housing the employees is to allot plots of land 50′ × 50′ or 50′ × 75′ on lease for 10 years at a rent of Re. 1 per annum. The employees may have an advance of one year's house allowance to be re-paid in 10 instalments within one year. Lessee employees are qualified for house allowance. There are 225 lessees in this area. The water supply, sanitation, electricity etc. are on the same lines as with the Company's area. Exbt. No 14(g) gives an idea of the various types of quarters seen by the Tribunal on the 14th and 27th September, 1948. Some complaints were made that in certain cases there was overcrowding and the water taps were not sufficient. Those of the employees who are not in the settlement area or in the quarters provided by the Company, live in the bustees. I saw some of the quarters occupied by the workers in the bustee. The conditions of the houses in the bustee do not at all compare favourably with the conditions of the houses of the Company or the houses in the settlement area and that perhaps accounts for the overcrowding in some of the Company's quarters. Complaint has been made also that at least one type of quarters *viz.* C. E. 2 type should be replaced by other types of quarters. They also complain that the principle mentioned by the Company for allotting quarters are not adhered to and reference has been made to Exbt. 14(a) and 14(d). Now so far as the complaint about C E 2 types are concerned all that I can say is that in any future plan of building houses, this type should not be built unless the plan is improved. At one stage, in the course of argument it was suggested that these quarters should be 'abolished'. That word does not convey any clear idea to my mind. I do not think that this Tribunal would be justified in asking the Company to demolish these quarters. All that this Tribunal can do is to tell the Company not to build any more quarters of C. E. 2 type.

In this issue a large number of authorities have been cited which I need not mention to show what type of quarters should be provided by the employers. The principles are well known and I do not want to burden this Award by referring to each one of those authorities. So far as the allowance is concerned I think it is adequate and I do not think any reason to introduce any change in this allowance has been made out.

The Union wants some more water taps to be installed at different places: but this is a matter which depends upon various circumstances including the availability of materials. I would leave it to the discretion of the Company to improve the water supply as soon as possible under the circumstances.

ISSUE No. 15:—*Medical grievances including full pay for the first four days of sickness as specified in the Assam Oil Company Labour Union's letter, dated 17th March, 1947 and amplified in its Memorandum No. AOC/GM/106, dated the 12th December, 1947.*

The Statement by the Union refers to the letter, dated 17th March 1947 [which is now Exbt. No. 15 (1)] for covering the nature of the grievances they want remedied. This was amplified in the Memorandum which is now Exhibit No 15 (2). One of the grievances mentioned in the written statement is that for the first four days of sickness, they should not be on half pay as it is at present. In the course of argument it was urged that special arrangements should be made for the detection and cure of occupational diseases. The other grievances are more or less of a minor nature. While dealing with this issue I should mention that I thought it necessary to examine the Chief Medical Officer on 21st September 1948 and also to visit the various medical institutions under the Assam Oil Company on 22nd September 1948. The Maternity Hospital was also visited on the same day as well as the Refinery Dispensary. The staff in the Main Hospital consist of the Chief Medical Officer, 14 Doctors—one of whom happens to be M.B. and the rest being L.M.P. There are 2 family non-graduate Doctors, 2 Sisters, 14 Nurses, 13 Compounders, 7 Labour Assistants, 2 Theatre Assistants, 15 Midwives and 8 family ward attendants, apart from various workers who help in carrying on the work of the hospital. The lowest average number of patients was 542 daily in February and the highest was 829 daily in August. These sick people draw full pay during the period of incapacity after the initial period of half-pay up to a maximum period of 90 days in any 12 months. There are 12 beds in the maternity hospital at Digboi and there are 6 outside midwives appointed by the Company to look up cases in the lines. Serious cases are brought to the hospital and pre-natal care is taken by a Doctor. The Refinery Dispensary is meant chiefly for employees. They only deal with the less serious cases. The number of cases they deal on an average is 320 per day in season time. In Tinsukia also there are 4 beds for emergency cases in the Out-door dispensary. The difficult cases being sent to Digboi. On an average, about 100 patients attend daily including both employees and their dependants. After having seen the arrangements in the hospital I am of opinion that the medical arrangements well compare favourably with the arrangements in any hospital in any flourishing town. With regard to Occupational Diseases the evidence of Dr. Prowse, the Chief Medical Officer, is worth noting. He says that he has not seen a case of Epitheliomatous Cancer although he has been in this hospital for 22 years. I might mention that in the course of argument, stress was laid on this particular disease. It was suggested that arrangements should be made to detect this disease at its inception and this is a disease which is likely to be caused by handling of petroleum product. According to Dr. Prowse, even the cases of Oil Dermatitis are not many.

So far as this issue is concerned, I am of opinion that the medical arrangement is quite adequate. I have already dealt under Issue No. 7 the Sick Leave rule. The Company says that half pay for the first four days is to prevent malingering. It appears to be a preventive measure and not a punitive measure. I do not see any reason to change this rule.

ISSUE No. 10:—*Extension of Educational facilities as specified in the Union's letter of 17th March 1947 to the Management.*

The statement of the Union refers to its letter, dated 17th March 1947 to the Management. In that letter, which is Exhibit No. 16 (1), they emphasise the fact that Nepali and Telegu teaching should be introduced as is done in the case of other employees. They also want that schools should be opened at Bapapong, Togla Basti and Barbil and also suggested in course of argument that conveyances should be provided for the pupils who come from certain distances. The dependant brothers and sisters of the workers should be allowed to attend schools on the same terms as their children. The Company should make education free altogether because education is free only up to Class VI. I would like to dispose of the question of opening new schools at once. From Bapapong the Lower Primary School is only about a mile and High School is about 3 miles. From Togla Bustee the Lower Primary School is half mile and H.E. School is 1½ mile and from Barbil the Lower Primary School is about a mile and also H.E. School. I do not think the case of opening new schools in this case has been made out

In the Statement, the Company shows that there are 2 high schools for boys and girls and 1 M.E. and 8 Primary schools. At present there are 1646 boys and 792 girls which totals up to 2438 students receiving education. No fee is charged up to Class VI either in the Primary or Middle English School but a nominal fee is charged for classes VII to X. In the course of argument some emphasis was laid on the question of arrangement for teaching Telegu students in their own language, arrangements in Nepali having been made already. Sri Sen for the Company urged that there is no justification for making arrangements for teaching in Telegu. Most of the Telegu workers have not got their family at Digboi and some of the Telegu children who are in Digboi are being taught in Hindi. In their letter, dated 2nd March 1948 to the Director, Labour Bureau, Kannedy House, Simla, the Company pointed out that on that day there were 10 schools working and they intended that 2 more schools should be constructed shortly. Evidently one of them has already been constructed and one is likely to be constructed in the near future. I had an opportunity of going to the boys school where I found that 496 students out of 581 were present. There was also a suggestion that the night school should be raised to the standard of Matric school. The Company said that all these things require funds and that although Government was asked for help, they did not get any. Looking at this question as a whole, I find that the educational facilities is adequate. The Company may appoint a Telegu teacher but I see no reason why they should be compelled by an Award to make such an arrangement. It may be noted that Exhibit No. 16 (a) filed on 29th October 1948, shows that the number of students has increased to 2,474. The raising of the night classes to the Matriculation standard at Digboi and the establishment of M.E. school at Tinsukia is left to the discretion of the Company. There is a Government H. E. school at Tinsukia.

The Union also pressed for buses to be provided for school boys who have to attend school from a certain distance, but when I asked if any school in Assam provided buses for boys, the reply was that buses were provided for in some girl's schools. No case for bus service for boys has been made out.

ISSUE No. 17:—*Departmental and Minor Grievances including Acting Allowances, Increasing pressure of work by reducing requisite number of men, Travelling Allowance, etc., as specified in the Union's Letter No. AOC/GM/106 of 9th January 1948, and recorded in the Joint Committee meeting*:

In the statement of the Union, the various departmental grievances have been referred to. Acting allowance has been specifically mentioned and they claim that whoever acts in place of another should get the same pay of the person in whose place he is to work. The Company in their statement refer to their letter No. 051/13/9-G of 8th March 1948. They say that most of the matters are of trivial nature and should have been dealt with by the various Works Committees. They deny any pressure of work and also said that acting allowance is paid to clerical and supervisory staff, members of Drilling etc. gangs. Exhibits No. 17(3), 17(4) and 17(5) are letters, dated 29th January 1948, 27th December 1947 and the 15th January 1948 respectively. These letters deal with matters in connection with some other issues as well but I find that the Company replied in Ex. 17(2) to the various points raised in Exbt. 17(1) by the Union. The numbering of the paragraphs in Ex. 17(2) corresponds to the numbering of the paragraph in Exbt. 17(1). To get an idea about the nature of the grievances I find that, the first grievance is mentioned in Para. 1(a) The grievance is about the change of hours and pressure of work. In 1(b) they talk of promotion of Jogalis fit for A and B Grade jobs. 1(c) talks about the remuneration of the apprentices; 1(d) also talks of increase in pay.

Para. 2: (a) Remuneration of the fitters' gang. Complaints pressure of work in Rig Building Department.

(b) Suitable clothing for workers in the Rig Building Department

(c) Some individual cases for promotion and increment.

Para. 3: Duty hours should be changed.

Para. 4: Headman should be given a scope of promotion to the post of supervisor.

Para. 5: Refinery Distillation Engineering: Certain promotion claimed in that department without any test.

Para. 6: Medical Department: (a) Refers to some complaints about oil men.

(b) They do not get ½ hour interval while working in the morning shifts for meals.

(c) Similar complaints by Firemen.

Para. 7: (a) Drilling Department: They complain of shortage of hands, increase in pressure of work.

(b) Those working in the Mud Plant—change of shift from day to night is objected to.

(c) Demand for some cover over their heads while working in Derricks and that there should be arrangement for covering the Derricks with tarpauline as before during the war.

(d) Pump houses should be covered for protection against rain and cold.

(e) The drilling crews are made to clean cellar which was formerly done by Contractors' labour.

(f) Certain suggestions for safety of workers.

(g) Demands an interval of half an hour for waiting purposes.

Para. 8: Telephone Department: They say that there is pressure of work and atleast one more operator should be provided for. That there is also a complaint of discourteous conduct of several officers.

All these matters have been replied to by the Company in Exbt. 17(2). These are matters of minor details which should have been disposed of by the various works committees. By the way, I notice that there are several Works Committees in this concern; but I find that Section 3 of the Industrial Disputes Act mentions only one Works Committee. However, I need not press this matter any further.

On perusal of the letters, Exbt. 17(2) and the objections raised by the Union, I find that the question of acting allowance and shortage of hands were really stressed. So far as the acting allowance is concerned, the claim is as mentioned above. But the procedure that is being followed is to be noted in Ex. 17(3), dated 29th January 1948, in which the company say that the acting allowance should be the minimum of the grade in which the clerk acts and will be for the acting period of not less than 14 days. This matter was clarified in the course of argument by Mr. Murray. He said that if a clerk acts for a senior grade clerk he will get the difference between his own pay and the lowest pay of the grade in which he acts as acting allowance; but before he is entitled to get the allowance, the minimum period should be atleast 14 days. The same principle applies to daily rated men in gangs. There being no acting allowance for Artisans or Sweepers. So far as protective clothing is concerned, the Company replied that certain issues of clothing have already been promised but as a large order was cancelled by the suppliers the Company was trying other sources and the clothing will be issued as soon as the supplies are given. So far as shortage of hands is concerned, every man is expected to do his share of work and if there is shortage of hands, I do not see how this Tribunal can force the Company to employ more men. It may be noted that the various complaints of grades and things mentioned in the letter, dated 9th January 1948, lose their importance in view of the change in the system that was introduced on the 10th March 1947. It is to be found as Annexure X in Company's reply. The issue raises the question of sympathetic consideration by the Tribunal, but it appears from the reply of the Company that they have been trying to meet the demands as much as possible. The case of the telephone operators was placed before me in which the Union tried to show that one more operator was necessary. But the operators themselves, it appears never complained that they were over-worked. [*Vide* Exbt. 17(3)]. In the course of my local inspection in September 1948 last, I was told that Well. No. 609 was in a remote part of the jungle where wild animals were seen and therefore it was not safe to ask only one man to work as a guard at that place, because an ordinary human being is not expected to be as courageous as a Shikari. When I went there in December last, I was told that the practice of posting a guard at that well has ceased on account of some automatic arrangements.

Giving due considerations to the various papers placed before me and the arguments advanced on this issue, it appears to me that these petty grievances are being attended to by the Company and no Award against them is called for.

ISSUE No. 18:—*Apprentices' Grievances as specified in the Union's letter of 17th March 1947 and in their Memorandum.*

The letter of the Union dated 17th March 1947 [Exhibit No. (15 (1)] which laid the grievances of the Union before the General Manager on this point runs as follows:

> "Increase in their rates, proper quarters, better scope for training, better service benefits and the letter of the Apprentices filed on the 27th August, 1947 Exhibit 18(1) practically to the same effect."

They want more qualified teachers, better pay and a central place for their accommodation for meeting and exchanging their views among themselves. The training last for 5 years and the apprentices are paid at the rate

of As. 14 per diem in the first year, Re. 1 in the second year, Re. 1-2-0 in the third, Re. 1-4-0 in the 4th and Re. 1-6-0 in the 5th year. Those who have passed from the Jorhat or Surma Valley Technical Schools in final examination in the first division start at the rate of Re. 1-4-0 in the 4th year per diem and those who have passed out in the 2nd or 3rd Division start in the 3rd year at the rate of Re. 1-2-0 per diem. Certain other emoluments are also paid to them if they pass certain examinations and after they have passed all their examinations they are paid according to the result of the examination with the maximum starting pay of Rs. 2-12-0 per day. In the course of argument it was also said that the period of training should be reduced to 3 years instead of 5 years. Some of the time of the Tribunal was taken over the question whether the Apprentices are labourers or pupils. But, this question is purely academic. The real questions are whether their pay should be increased, the period of training be reduced from 5 years and whether they should get better quarters. So far as the first point is concerned, it has been disposed of by Issue No 1. So far as the reduction of period of training is concerned, there seems to be some practical difficulty. For example, students who pass in the first division from Jorhat or Surma Valley Technical Schools, undergo training for 2 years under the present scheme and those who have passed in lower divisions, undergo training for 3 years under the present scheme. It has not been shown to me how these can be adjusted if the present period of training is reduced to 3 years. Moreover, some of the apprentices go and seek job somewhere else outside the Assam Oil Company's service on the strength of the certificate they get. The value of the certificate may be lessened if the period of training is reduced to 3 years only. So far as quarters are concerned, there seems to be good ground for their grievances They are educated men and they should be given better quarters than the ordinary labourers. Mr. Murray, Assistant General Manager, said that attempts are being made to provide them with better quarters. The Award on this issue will be that the Apprentices should be provided with better quarters than what they are occupying at present as soon as possible. Their emoluments will be increased as mentioned in Issue No. 1 but the training period will continue as at present.

ISSUE No 19:—*Wages for Involuntary Unemployment to laid off Workers.*

The claim of the Union was that laid off workers should be paid in full under Standing Order No. 12. They referred to certain instances where workers were laid off and no payment was made The Company on the other hand pointed out that some 12 months ago a certain number of men were laid off at Tinsukia. They only lost their basic wages because the Company continued to pay Dearness Allowance and foodstuffs at concessional rates I am glad to know, however, that both the parties—Sri Satish Sen for the Company and Sri S. K. Basu for the Union—agreed that in case no alternative work is found for the laid off workers, the arrangement arrived at in the Tripartite Conference should be followed. The conclusions arrived at by the Tripartite Conference will be found in Appendix A, attached to this Award. As the parties agreed on this point, no modification of the conclusions arrived at by the Tripartite Conference is necessary.

I would, therefore, direct that the schemes laid down by the Tripartite Conference should be followed in the case of laid off workers.

ISSUE No. 20:—*Same wages, pay scales, Irreducible minimum pay and allowance for Involuntary employment and service benefits for Company's Contractors' Labour*:

Before I deal with the merits of this issue, I think I should note that a letter was addressed to the Ministry of Labour, New Delhi, dated 21st September, 1948 by some of the labourers working under contractors. The

Ministry of Labour re-directed that letter to this Tribunal with the following observation:

> "I am directed to forward a copy of letter dated the 21st September, 1948 from the Assam Oil Company Contractor's Labour Union, Digboi. Attention is invited to item 20 of the Schedule to this Ministry Order No. LR-3(29), dated the 10th August 1948."

In the present dispute before me the Contractors' labourers are not parties. No notice was served on them.

As to how this matter came before this Tribunal will be apparent from the statement made by the Union. Their complaint is that these labourers were engaged not only for jobs like building of quarters, road work, repairs etc. but also for various kinds of jobs even in the Refinery and Oil Fields requiring the services of unskilled, semi-skilled and even skilled labourers. According to the statement of the Union "a good many direct employees of the Company had to lose their jobs now and then as a result of this practice though carried out under careful covers." The question of the abolition of the contractor's labour also is not before me. The prayer of the Union is that the Company should see that the contractors should conform to their own pay scales and service benefits etc. The Company in its reply says that Contractors' labourer is used by the Company in limited number for work of temporary duration, *e.g.*, building quarters, roads, jungle clearing, painting etc. The Company says "Payments are made to the contractors and the payments to the workers are scrutinised by us from time to time, since the wages element in the calculation for contract work is made up by us on the basis of wages similar to those paid to our own employees, and since Dearness Allowance is also paid and an allowance on the basis of the difference between our subsidised rice rate of Rs. 7 per maund and the average prices of rice for the month in question."

They further allege that the contractors labour also receive free medical treatment in the Company's hospital. Contractors are employed upon work which is not the normal work of producing and refining oil or upon work of temporary and fluctuating character. The Company does not agree to the proposal that the employment of contractors should be abolished.

Since neither the contractors are now before us nor the labourers, no orders can be passed directing them to act in a particular way. But, the Company is a party to the dispute and they can be directed to see that when they enter into a contract with the contractors, they should do so on the basis of wages that are paid to their own employees. Nothing more can be done beyond this in this matter.

Before I close this Award, I must thank Sri S. K. Basu, Sri V. Sarma and Sri S. K. Pramanik, who appeared for the Union and Sri S. C. Sen, who appeared for the Company, for the considerable assistance that they gave me in dealing with this protracted and intricate matter. I must also thank Janab A. Talib, Regional Labour Commissioner (Central), who very loyally helped during the preliminary stages of the case before my office was fully organised and the first few days of hearing at Digboi.

S. P. VARMA, *Chairman*,
Central Industrial Tribunal.

CALCUTTA;

the 8th January, **1949**.

APPENDIX A

COPY OF LETTER NO. L-1891, DATED 12TH JUNE 1944, FROM THE DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA, DEPARTMENT OF LABOUR, TO ALL PROVINCIAL GOVERNMENTS, ETC.

Compensation for involuntary unemployment due to shortage of coal, raw materials or change in lines of production.

I am to invite attention to the discussion on the above subject at the Tripartite Labour Conference held in September 1943. It has not been easy to evolve precise proposals in this matter in view of the difference on some points apparent at the discussion and the need to meet varying conditions to which the proposals may apply. Proposals for compensation for involuntary unemployment of the kind referred to have to be considered not only with reference to possible schemes of unemployment insurance, but also with reference to the obligation of Governments to grant relief where found necessary.

2 The Government of India feel that while it is not possible to propound a fully co-ordinated scheme in this respect which can be statutorily imposed, it is advisable that they should formulate certain principles which may suitably be considered by Provincial Governments and employers when occasion arises. The adoption of measures on the lines of those in the Annexure by all concerned would achieve a desirable uniformity in India. The Governments of individual States represented at the Labour Conference are also being apprised of the Government of India's proposals.

3. I am to add that the Government of India will act on the principles stated in the Annexure, in respect of their own industrial establishments.

ANNEXURE

(1) *Kinds of unemployment covered.*

(a) The proposals relate only to short-term unemployment, during the period of the war due to shortage of coal or raw materials or changes in lines of production of which adequate notice cannot be given.

(b) The proposals do not cover closures of factories or of departments due to special Government orders.

(c) The proposals do not cover closures of which adequate notice is given under Standing Orders, whether statutory or voluntary.

(2) *Benefits to be given.*

(a) Benefit which should be on a scale lower than the ordinary rate of pay may be fixed in either of two ways:

(i) Seventy-five per cent. of the ordinary rate of pay for first fortnight of unemployment and 50 per cent. of the ordinary rate of pay for the second fortnight of unemployment with possibly a flat rate of benefit for persons drawing lower levels of income.

(ii) A flat rate which would be about 75 per cent. of the average of lower range of wages rates in the undertaking.

(b) Duration of benefit should be one month in each half year, allowing for a waiting period of 7 days (benefit however to start from the first day of unemployment provided the unemployment lasts longer than the waiting period).

(c) This special unemployment benefit will not qualify a worker for bonuses determined by reference to earnings over any period.

(d) The cost of benefits will be admitted as revenue expenditure for income-tax and Excess Profit Tax purposes.

(3) *Conditions attached to benefit.*

(a) To quality for benefit a worker must answer to a muster roll once a day at his usual place of employment or, with the permission of the employer, at any other place.

(b) A worker will be ineligible for benefit if he unreasonably refuses work even of a different sort in his usual factory or (provided employment offered is in the same locality) by transfer from one department to another in the same undertaking or industry (or from one industry to another). In case of dispute whether an objection to transfer was reasonable or not, an authority designated by the Provincial Government shall decide finally. For the transfer of Labour from one industry to another use will be made of the Employment Exchanges in respect of skilled and semi-skilled personnel and in the unskilled labour Supply Committee in respect of unskilled labour.

(c) The employer will not be entitled to discharge during the benefit period any worker who has been in continuous employment with the same employer or in the same industry in that locality for a period of not less than three months.

(4) *Benefit by whom given.*

The liability to pay benefit will be on the employer.

(5) *Industries covered.*

All industries should be covered whether engaged on war industry or otherwise.

(6) *Methods of ensuring payment of benefit*

A Province (or State) should use its good offices or conciliatory powers to persuade employers to pay: though in suitable cases disputes in this regard can be referred to adjudication under Defence of India Rule 81-A.

Where voluntary agreement between the employer and the workers has been reached or where the Provincial Government is satisfied as to the detailed measures of benefit necessary, the agreement or the details could be embodied in an order to be passed under Defence of India Rule 81-A (1) (b) after consultation in individual cases with the Central Government.

The State Governments will utilise the appropriate legal machinery available to them.

COPY OF LETTER No. L-1891, DATED 1ST MARCH 1946, FROM THE DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA, DEPARTMENT OF LABOUR, TO ALL PROVINCIAL GOVERNMENTS, ETC.

Compensation for involuntary unemployment due to shortage of coal, raw materials or changes in the lines of production.

I am directed to invite attention to this department letters No. L-1891, dated 12th June 1944 and 9th November 1945 on the above subject. As a result of consultations with the Provincial Governments and the employing

departments of the Government of India, and of discussions at the seventh Labour Conference held in November 1945 the Government of India have decided that the sub-clause (b) of clause 2 of the scheme detailed in Annexure to this department letter No L-1891, dated 12th June 1944, should be amended to read as under:—

> "Duration of benefit should be one month in each half year. No benefit will be given in the half-yearly periods January to June or July to December until the number of days of involuntary unemployment has exceeded seven in the aggregate in the half year."

It has been further decided that the scheme should be retained till the war time controls are lifted and unemployment due to shortage of coal, raw materials, or changes in lines of production ceases to be of serious moment.

H. KHANNA, *Dy. Secy*

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